



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUN 25 2001

Paper No. 14

In re Application of :
Di Prinzio et al. :
Serial No. 09/628,146 :
Filed: July 28, 2000 :
For: MAGNETIC PAGE MARKER :
RESPONSE TO COUNSEL'S
COMMUNICATION

This is in response to Counsel's communication dated June 20, 2001, received by FAX June 21, 2001. Applicant's counsel is asking for further review and consideration of a request for refund filed May 24, 2001, and the Office response to said request dated June 12, 2001. Additionally, complaints are presented on how this matter was handled by Office personnel.

A review of the record, on issues pertinent to this matter, shows the following:

1. This application was filed July 28, 2000.
2. At the time of filing Power of Attorney was given to Paul L. Brown of Emrich and Dithmar of Chicago, IL.
3. On October 10, 2000 an Office action was mailed to Mr. Brown, rejecting claims and setting a period for response.
4. On February 8, 2001 a request for an extension of time was filed by applicant. This document appears to request that \$195 be charged to Visa credit card # 4546-5700-9035-9501 (card stated to belong to Jorge Pintos, of Argentina, card expiration date of 4/01).
5. A new Power of Attorney for Robert E. Bushnell and Law Firm was filed March 6, 2001 along with a request for uncertified copy of patent file wrapper and contents.
6. April 10, 2001 a response to the rejection of October 10, 2000 was filed along with a request for a 3-month extension of time. This request stated that \$195 had been previously paid and included a check for \$250, for the remainder of the required fee. The request for extension of time also authorized any additional fees

required be charged to counsel's deposit account. The amount of \$195 was charged to counsel's deposit account.

7. On May 24, 2001, counsel requested that the \$195 charged to his deposit account be refunded.

8. On June 12, 2001, Merilyn Watts denied the requested refund.

9. Mr. Bushnell, of Counsel, made a series of telephone inquiries on June 20, 2001 and then sent this document being answered.

There appears to be a series of miscommunication and misunderstandings that need to be corrected. For these I apologize on behalf of the Office.

First, with respect to item #4 above – paper filed February 8, 2001 – not acted on by the Office. At the time this paper was filed by applicant there still was a Power of Attorney in the case to Paul L. Brown. In accordance with MPEP 403 and 37 CFR 1.33, we would not act on this paper, particularly since there was no amendment filed at that time, and it made an unusual request to charge a third party's credit card of unknown connection to this case. According to our records, the \$195 was not, and will not, be charged to Jorge Pintos' credit card.

Second, on April 10, 2001, when the amendment and request for extension of time was filed, the \$195 residual fee due was charged to counsel's deposit account for at least several apparent reasons:

- 1) To keep the case pending.
- 2) Counsel's understanding that the \$195 had been charged to a credit card is incorrect according to our records.
- 3) In view of Power(s) of Attorney in the case, we followed the attorney's instructions as much as possible.
- 4) The credit card listed in the February 8, 2001 document appeared to be expired.

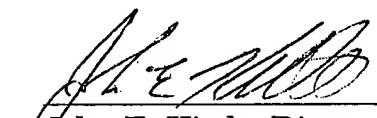
Third, your request for a refund, it's denial and your renewed request for refund. Ms. Watts' denial of your request for refund contains a misstatement in referring to the potential credit card as being your credit card.

The Office has two options to select between – your renewed request for the \$195 to be refunded and holding this application to be abandoned for failure to file a timely response. When your request for an extension of time of April 20, 2001 was

processed absent charging the \$195 to your deposit account (an action you had authorized), the amendment would have been untimely and the case would have been held abandoned.

The Office should have clearly communicated this to you, and for this we apologize.

Your renewed request for refund is DENIED. If you present evidence that Jorge Pintos' Visa card was charged \$195 by the Patent and Trademark Office, we would be happy to revisit this decision.



John E. Kittle, Director
Technology Center 3700

Robert E. Bushnell
Attorney at Law
1522 K Street, NW, Suite 300
Washington, DC 20005



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DATE MAILED: June 12, 2001
PAPER NO. 29

ROBERT E. BUSHNELL
1522 K STREET, N.W.
SUITE 300
WASHINGTON, DC 20005-1202

In re Application of : DI PRINZIO, NICOLAS JAVIER
Application No. : 09/628,146
Filed: : 07/28/00
Attorney Docket No. : P-56367

RESPONSE TO REQUEST FOR REFUND

This is in response to your letter submitted on May 24, 2001, wherein you requested a refund in the amount of \$195.00.

The request for refund is **DENIED**.

After thorough inspection of U.S. Patent and Trademark Office physical records and Revenue Accounting Management financial records, it is determined that you are not entitled to a refund of \$195.00.

According to our records serial number 08/628,146 was filed on **July 28, 2000**. According to our accounting records, there were only two fees charged to this application: \$250.00 for extension of time (small entity), paid by check on 04/11/01 and \$195.00 for a petition fee, withdrawn from your deposit account on 4/16/01.

The Office has no record of any other amounts specifically \$195.00 on February 8, 2001 charged to your credit card. If applicant does not agree with this statement additional information providing us with proof of retrieving monies from your credit card. Once this information has been provided the office will reconsider your request for refund.

Telephone inquiries concerning this matter may be directed to Merilyn S. Watts
(703) 308-1730

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Merilyn Watts
Supervisory Legal Instrument Examiner
Group 3700